

1945

Present: **Wijewardene J.**

**W. E. DE PINTO v. RENT ASSESSMENT
BOARD, DEHIWALA-MOUNT LAVINIA.**

IN THE MATTER OF AN APPLICATION FOR A WRIT OF *Certiorari* FOR QUASHING CERTAIN PROCEEDINGS BEFORE THE RENT ASSESSMENT BOARD CONSTITUTED FOR THE DEHIWALA-MOUNT LAVINIA URBAN COUNCIL AREA UNDER THE RENT RESTRICTION ORDINANCE, No. 60 OF 1942.

Rent Restriction—Annual value of house reduced—But rates to be levied raised—Landlord's claim for increased rent—Interference by Rent Assessment Board—Legality of—Writ of Certiorari—Rent Restriction Ordinance, No. 60 of 1942, s. 6 (b).

Where an Urban Council reduced the annual value of a house but raised the percentage at which rates should be levied and the Rent Assessment Board of the area, on the application of the tenant of the house, decided that the claim of the landlord for an increased rent, under section 6 (b) of the Rent Restriction Ordinance, was unjustified on the ground that section 6 (b) of the Rent Restriction Ordinance applied *only* to cases where, owing to an enhancement of the annual value of the property, the rates and rent have been raised—

Held, that there was a clear usurpation of jurisdiction and the finding of the Assessment Board should be quashed. Section 6 (b) of the Rent Restriction Ordinance permits a landlord to raise the rent, according to a certain formula, whenever there is an increase in the amount paid by the landlord as rates, and there is nothing in that section or even in the whole Ordinance to indicate that the Legislature contemplated only an increase of the rates occasioned by the enhancement of the annual value and not by the raising of the rate percentage.

THIS was an application for a Writ of *Certiorari* against the Rent-Assessment Board of Dehiwala-Mount Lavinia Urban Council Area.

H. V. Perera, K.C. (with him *H. W. Jayewardene*), for the petitioner.

N. Nadarajah, K.C. (with him *C. Renganathan*), for the 1st to 4th respondents.

No appearance for the 5th respondent.

Cur. adv. vult.

October 5, 1945. WJYEWARDENE J.—

This is an application for a Writ of *Certiorari* for quashing certain proceedings before the Rent Assessment Board constituted for the Dehiwala-Mount Lavinia Urban Council Area under the Rent Restriction Ordinance, No. 60 of 1942.

The petitioner let a house in Dehiwala on a monthly rent of Rs. 30 to the fifth respondent and undertook to pay the assessment rates. At the commencement of the tenancy, the annual value of the property was Rs. 330, the standard rent in terms of section 5 (1) (b) of the Ordinance was Rs. 30 per month and the yearly amount payable as rates was Rs. 29.72 which was the amount fixed for 1941, "the year which included

the date by reference to which the standard rent was determined". In January, 1945, the Urban Council reduced the annual value from Rs. 590 to Rs. 321 but raised the percentage at which rates should be levied from 9 per cent. to 12 per cent. of the annual value. This resulted in the rates payable by the petitioner being raised from Rs. 29.72 to Rs. 38.52 per annum.

Now, section 6 (b) of the Ordinance enacts:—

"Where the rates levied under any written law in respect of any premises are, under the terms of the tenancy, payable by the landlord, and the actual amount for the time being payable per annum by way of such rates exceeds the amount so paid for the year which included the date by reference to which the standard rent of the premises is determined for the purposes of this Ordinance, the standard rent per annum may be increased by an amount which bears to such rent the same proportion as the excess amount payable per annum by way of such rates bears to the amount so paid for the year which included the aforesaid date".

If that sub-section governs the present case, the petitioner could claim a monthly rent of nearly Rs. 39 from January 1, 1945.

The petitioner wrote to the fifth respondent on February 15, 1945, referring to section 6 (b) of the Ordinance and claiming rent at Rs. 39 per month. Thereupon, the fifth respondent made an application to the Board setting out the material facts mentioned above and asked the Board to restrain the petitioner from claiming an increased rent.

Overruling an objection raised by Mr. Advocate H. W. Jayewardene who appeared before them as Counsel for the petitioner, the Board held that they had jurisdiction to adjudicate on the application of the fifth respondent and decided that the petitioner was not entitled to claim more than Rs. 30 a month.

The Board misdirected themselves when they overruled the preliminary objection taken by Mr. Jayewardene. Section 6 (b) of the Ordinance empowers the petitioner to "increase" the standard rent as "the actual amount payable by way of rates" in 1945 exceeds the "amount paid" from 1941. A comparison of sub-sections (a) and (c) with sub-section (b) of section 6 shows also that the Legislature did not give any authority to the Board to interfere with an enhancement of rent under section 6 (b). The Board thought that they were vested with wide powers under section 11 of the Ordinance, and that, therefore, they had jurisdiction to hear and determine any application against an increase of rents except where such increase had been made under section 6 (b). Then they proceeded to assume jurisdiction to adjudicate in the present case by holding that section 6 (b) applied *only* to cases where the rent has been raised on the ground that there has been an increase in the amount paid as rates owing to an enhancement of the annual value of the property. It is not necessary for the purpose of this application to express an opinion with regard to the extent of the powers conferred by section 11, as I hold that the view of the Board with regard to the scope of section 6 (b) is erroneous. Section 6 (b) states in the clearest possible

language that a landlord is entitled to raise the rent according to a certain formula, whenever there is an increase in the amount paid by the landlord as rates, and there is nothing in that section or even in the whole Ordinance to indicate that the Legislature contemplated only an increase of the rates occasioned by the enhancement of the annual value and not by the raising of the rate percentage.

The Board gave a restrictive interpretation to section 6 (b), as they permitted themselves to be guided by a speech alleged to have been made in the State Council and by their own view that it would be "monstrous to allow a landlord to increase the rent by Rs. 120 per annum to meet an increase in the tax of Rs. 8.80". But there are certain recognized canons of interpretation which must be followed in construing an Ordinance. Where the words of the Ordinance "are themselves precise and unambiguous, then no more can be necessary than to expound those words in their ordinary and natural sense. The words themselves alone do in such a case best declare the intention of the lawgiver". Vide *Craies on Statute Law, Third Edition, page 66.*) In view of the reliance placed by the Board on the speeches in the State Council as aids to the interpretation of an Ordinance, it is not inapposite to refer to the opinion of Pollock C. B. in *The Attorney-General v. Sillem* that where the terms of a statute "are reasonably plain and clear" there is no need for "the assistance which may be derived from what eminent statesmen have said". Moreover, it is not competent for the Board to modify the clear language of the section in order to bring it into accordance with their own views as to what is right or reasonable and thus give relief to the fifth respondent. Vide *Craies on Statute Law, Third Edition, page 85.*)

There has been a clear usurpation of jurisdiction in this case. By acting in excess of their jurisdiction the Board placed themselves in a position to make an order which under section 12 (12) would be final and conclusive. If that order is allowed to stand, it would prejudice the petitioner when he seeks to take action against the fifth respondent as his tenant.

I quash the finding of the Board and order the first, second, third and fourth respondents to pay the costs of the petitioner on this application.

Rule made absolute.